

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

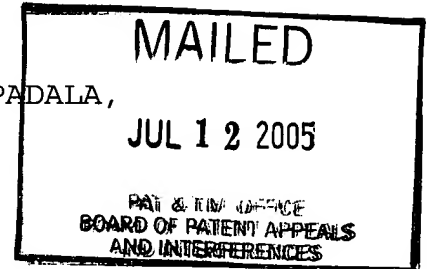
The opinion in support of the decision being entered today (1) was **not** written for publication in a law journal and (2) is **not** binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EUGENE J. ROLLINS, SAILENDRA PADALA,
NORBERT HENDRIKES, PAUL GAUTHIER
and MICHEAL TSO

Application No.09/747,666



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on June 21, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

Information Disclosure Statement (IDSs) were filed on June 26, 2003, and on September 16, 2003. A review of the file reveals that the examiner has not considered these IDSs. MPEP 609 states, in part:

" The Examiner must also fill in his or her name and the date the information was considered in blocks at the bottom of the PTO-1449 or PTO/SB/08A and 08B form."

Appropriate correction is required.

Upon review of the Examiner's Answer mailed on June 3, 2004 1), it appears that no appeal conference has been conducted. According to the Manual of Patent Examining Procedure (MPEP) § 1208 (8th ed., August 2001), when an appeal conference has been held, the appeal conference participants, including the examiner charged with the preparation of the Examiner's Answer, must identify themselves as the conferees, along with placing their initials next to their name. This procedure has not been completely followed, thus raising the question of whether or not an appeal conference was held.

Furthermore, in accordance with MPEP § 707.08:

After the action is typed, the examiner who prepared the action reviews it for correctness. The surname or initials of the examiner who prepared the action and the date on which the action was typed should appear below the action. If this examiner does not have the authority to sign the action, he or she should initial above the typed name or initials, and forward the action to the authorized signatory examiner for signing.

Accordingly, it is

ORDERED that the application is returned to the Examiner for:

- 1) consideration of the Information Disclosure Statements; and
 - 2) taking corrective action regarding the appeal conference,
- and for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:



CRAIG FEINBERG
Program and Resource Administrator
(703) 308-9797

CF/dal

PILLSBURY, WINTHROP, SHAW, PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102